



# Memorandum D10-14-62

Ottawa, November 12, 2015

## Tariff Classification of Costumes

### In Brief

This memorandum updates the administrative policy of the Canada Border Services Agency regarding the tariff classification of costumes.

This memorandum outlines the administrative policy of the Canada Border Services Agency regarding the tariff classification of costumes.

### Legislation

#### Customs Tariff

Note 1 (e) and (v) to Chapter 95:

This Chapter does not cover:

[...]

(e) Sports clothing or fancy dress, of textiles, of Chapter 61 or 62;

[...]

(v) ... apparel, ... and similar articles having a utilitarian function (classified according to their constituent material).

Heading 95.05:

95.05 Festive, carnival or other entertainment articles, including conjuring tricks and novelty jokes.

9505.10.00 - Articles for Christmas festivities

9505.90.00 - Other

### Explanatory Notes to the Harmonized Commodity Description and Coding System

Explanatory Notes to heading No. 95.05:

This heading covers:

(A) **Festive, carnival or other entertainment articles**, which in view of their intended use are generally made of non-durable material. They include:

[. . .]

(3) Articles of fancy dress, e.g., masks, false ears and noses, wigs, false beards and moustaches (**not being** articles of postiche - **heading 67.04**), and paper hats. However, the heading **excludes** fancy dress of textile materials, of Chapter 61 or 62.

[. . .]

The heading also **excludes** articles that contain a festive design, decoration, emblem or motif and have a utilitarian function, [e.g., ... apparel, ...]

## Guidelines and General Information

1. A decision by the Canadian International Trade Tribunal (CITT) regarding the tariff classification of costumes found that “costumes” has the same meaning as the term “fancy dress”, which is found in the [Customs Tariff](#).

2. In [\*Loblaws Companies Limited v. President of the Canada Border Services Agency AP-2010-022\*](#) (Loblaws) the Tribunal found that the goods at issue were fancy dress of textile materials but that the goods were not classifiable in either Chapter 61 or 62 and therefore Note 1(e) to Chapter 95 did not apply. The goods were classified in Chapter 95.
3. Note 1(e) to Chapter 95 of the [\*Customs Tariff\*](#) specifically excludes "... fancy dress, of textiles, of Chapter 61 or 62" from that Chapter.
4. Harmonized Commodity Description and Coding System Explanatory Note (A)(3) to heading 95.05 **excludes** fancy dress of textile materials, of Chapter 61 or 62".
5. In Loblaws, the Tribunal considered the Note 1(e) expression "of Chapters 61 or 62" to be a condition, rather than direction, as to where "fancy dress" should be classified. Furthermore, the words in Note 1(e) "...of textiles, of Chapter 61 or 62" immediately following the term "fancy dress" established the context in which the term "fancy dress" is to be applied. In this regard, the Tribunal indicated that the context of Note 1(e) qualifies and limits the type of fancy dress or costume to goods to which Chapters 61 and 62 apply.
6. Furthermore, the Tribunal indicated that durability and repeated wear are important though not determinative factors in the classification of costumes. The value of the goods, their primary use for festive occasions versus their utilitarian use as "everyday apparel" may also be taken into consideration when determining whether the costume has a festive value where any elements similar to apparel are only of secondary importance.

### **Tariff Classification Fancy Dress of Textiles (Costumes)**

7. The textile costumes classifiable in Chapters 61 and 62 are distinguished from those classifiable in Chapter 95 by the nature of the goods.
8. Textile costumes that are designed and constructed in a manner that allows for repetitive use, that are comparable in quality and value to articles of clothing (e.g., theatrical costumes, rental costumes, historical re-enactment costumes, etc.) are classified in Chapter 61 or 62, as appropriate, and excluded from Chapter 95 by the application of Note 1(e) to that Chapter.
9. In order for a textile costume to qualify for classification as a festive article of Chapter 95, the garment must exhibit significant deficiencies in terms of styling, construction, finishing touches and embellishments. Examples of garment deficiencies include the following: inconsistent thread colour or tautness; noticeable flaws in the yarn; irregular fabric colouring; gaps in the seams; absent or uneven hemming; loosely affixed buttons, fasteners and closures; blurred or patchy fabric prints; presence of numerous loose threads or pulls; glued or otherwise non-durably attached ornamentation etc.
10. Such deficiencies are characteristics of costumes generally intended to be worn once or twice (e.g. Halloween or Christmas costumes). Typically such costumes have more than one of the deficiencies mentioned.
11. In view of the above, costumes of Chapter 95 include those which are distinguishable from regular clothing by their design for limited use for festive occasions and those which are sometimes put up in retail packaging with inexpensive accessories of non-durable material. These costumes are of low quality and value where the utilitarian use as apparel is clearly of secondary consideration and importance to its use as a festive article.
12. On the other hand costumes of Chapters 61 or 62 are intended and designed primarily for utilitarian use as a clothing garment (e.g. as theatrical, occupational, or other apparel).

### **Additional Information**

13. For certainty regarding the tariff classification of a product, importers may request an advance ruling. Details on how to make such a request are found in CBSA [\*Memorandum D11-11-3, Advance Rulings for Tariff Classification\*](#).
14. For more information, within Canada call the Border Information Service at **1-800-461-9999**. From outside Canada call 204-983-3500 or 506-636-5064. Long distance charges will apply. Agents are available Monday to Friday (08:00 – 16:00 local time / except holidays). TTY is also available within Canada: **1-866-335-3237**.

| <b>References</b>              |  |
|--------------------------------|--|
| <b>Issuing Office</b>          | Trade Policy Division<br>Trade and Anti-dumping Programs Directorate<br>Programs Branch  |
| <b>Headquarters File</b>       | HS9505.90-0  |
| <b>Legislative References</b>  | <a href="#"><i>Customs Tariff</i></a>  |
| <b>Other References</b>        | Explanatory Notes to the Harmonized Commodity Description and Coding System<br><a href="#"><i>Loblaws Companies Limited v. President of the Canada Border Services Agency (AP-2010-022)</i></a><br><a href="#"><i>D11-11-3</i></a> |
| <b>Superseded Memorandum D</b> | D10-14-62 dated September 20, 2012   |